

INDIANA LEGISLATURE.

[Omissions and omissions of this report for want of space in these columns will appear in an appendix to Volume XXIII of the *Brevier Legislative Reports*.]

IN SENATE.

TUESDAY, March 17, 1885—9:30 A. M.

COUNTY EXPENDITURES.

Mr. Foulke's bill (S. 339) coming up with a majority committee report recommending a \$30,000 limit and a minority report recommending a \$100,000 limit.

Mr. Foulke explained: It is intended to restrict large expenditures by County Commissioners without the consent of the taxpayers.

Mr. Overstreet: All buildings necessary to the carrying out of the business of the county should not be delayed till an expression of the people can be obtained.

Mr. Macy opposed the majority report on this bill. He moved to substitute the minority instead of the majority report.

Mr. McIntosh: I had no idea when the bill was introduced but that it would pass unanimously. I am in favor of the bill as originally brought in the Senate.

Mr. Smith, of Jay, made an ineffectual motion—yeas, 18; nays, 20—to lay the bill on the table.

Mr. Foulke moved to amend the report of the committee so the limit shall be \$50,000.

Mr. Smith, of Jay: It should be a rule when a public building is erected at the expense of the taxpayers that it should be built with a view of two or three generations ahead of the times. This bill would result in putting Boards of Commissioners at the mercy of those who would not look far enough in the future. The advanced idea now is to put up good buildings and build substantial bridges. With all the safeguards now on the statute book this bill would prove vicious.

Mr. Foulke: In a good many counties there has been a disposition on the part of County Commissioners to expend a vast deal more money than is desirable on the part of the taxpayers, frequently a large portion of them. An excellent Court-house can be built for from \$40,000 to \$50,000. The one in Wayne County only cost about \$20,000, and is ample for that large county for years to come. This bill proposes nothing but what is just and right.

Mr. Marshall: I am in favor of the amendment. There are sometimes large expenditures made by County Commissioners which are unwarranted, and in opposition to the wishes of a majority of the taxpayers. There is a principle involved in this bill, and that is to put a proper check upon the servants of the people, by the people themselves; and that is right. It gives the people of any county the right to build as fine buildings as a majority may desire. It is best for the people to regulate such affairs as they seem right.

Mr. Sellers moved the bill and amendments be printed and made a special order Friday at 2 o'clock.

The motion was rejected upon a division—affirmative 17, negative 19.

Mr. Overstreet: Any action taken in this direction would embarrass any county desiring a public building. An officer should not be afraid to move until instructed; if it were otherwise he would not amount to much. Commissioners will not be extravagant more than necessities require. The statute requires they shall provide a Court-house and a place for all the county offices. A fire-proof Court-house can be built for \$50,000. Such a bill would accomplish nothing. Commissioners should have the discretion to act in such matters.

The \$50,000 amendment was agreed to by yeas 24, nays 14.

The minority report as amended was concurred in on motion by Mr. Foulke the bill was read the second time.

Mr. McIntosh moved that the bill be ordered engrossed.

Mr. Overstreet: I hope the motion will not prevail. There are bad features in the bill.

Mr. McIntosh: I understand in Ohio the Commissioners are not allowed to spend the people for an expenditure of over \$10,000 without first obtaining consent of the taxpayers.

Mr. Weir opposed the motion. The motion was rejected by yeas 19, nays 20.

SOLDIERS' MONUMENTS.

Mr. Ensey's bill (S. 148) to authorize County Commissioners to erect monuments in the several counties of the State was returned with a committee amendment that such expenditure shall be only upon a petition of a majority of voters.

Mr. Overstreet made an ineffectual motion to amend by substituting taxpayers for "voters."

The report was concurred in. The bill was ordered engrossed.

CONVICT LABOR.

On motion of Mr. Campbell, of St. Joseph, his bill (S. 164) concerning the hiring of convict labor was read the second time, with a committee amendment changing the hours for a day's work to eight to nine hours. He said: After two years of careful study on this question I have embodied my conclusions in this bill. The object of eight hours for a day's work is to cut down the product of convict labor about 20 per cent. The free laborers of the State do not have an opportunity to produce more on an average than would amount to what could be done in eight hours a day. This bill is an effort to help free labor as much as possible. The man who once gets a contract in these prisons has a monopoly forever, under what is called the lapping contract; so there is no competition as between those desiring to employ prison labor. Section 6 of this bill is intended to open competition for convict labor. The question is how best can this labor be regulated so as not to come into injurious conflict with free labor. The bill does this as far as practical by limiting amount of product, and putting it in such competition as to bring the highest price.

Mr. Youche moved to amend by striking all except Section 6 of the bill, which is intended to prevent the lapping of contracts.

The amendment was agreed to. The committee report as amended was concurred in.

INTEREST AND USURY.

Mr. Smith's bill (S. 159) to fix a penalty of five times the usurious interest bargained for was read the second time. He explained the penalty is now so small that the exaction of usurious interest that the law is practically inoperative. The bill simply re-enacts the law in operation previous to 1881.

Mr. Zimmermann made an ineffectual motion—yeas, 13; nays, 27—to lay the bill on the table.

Mr. Fowler: I am very much in favor of the provisions of this bill, but I move to recommit the bill with directions to so

amend that a homestead of \$1,000 shall be exempt from execution and the owner shall encumber it in no way. It is for the protection not only of the man, but of his wife and children also. As the bill stands it is no exemption, because homesteads would be encumbered with mortgages and in a short time would be lost.

Mr. Adkison: I hope the instructions will be more so the committee may consider other amendments. I move to amend so that the bill be referred to a Special Committee of Three with instructions to amend as they may see fit.

Mr. Fowler accepted the amendment. The motion was agreed to.

The PRESIDING OFFICER (Mr. Sellers) made the committee to consist of Messrs. Adkison, Overstreet and May.

TURNPIKE ROADS—RE CHARTER.

Mr. Overstreet's bill (S. 12) to authorize gravel and other turnpike road companies to extend their powers and franchises, was read the third time.

Mr. Smith, of Jay: I don't think the bill ought to pass. These class of roads more than pay for themselves many times over before their charters expire. They are generally operated and owned by but few persons.

Mr. Overstreet: I am apprehensive the Senator and some other Senators do not understand what this bill is. There is a provision in the law that any toll road may be purchased where an affirmative vote is had. This bill is to take the vote in negative a majority of all were assessed for its building may petition for the renewal of a charter running not to exceed twenty years, with a restriction that the tolls shall be one-half authorized under the original charter. All we ask is to have our roads kept up. I insist the bill is a good one and ought to become a law. It is proposed to keep up gravel roads at all.

Mr. Smith of Delaware: It seems to me the argument is not consistent with the object of the bill. It decreases the rates of toll so that but few roads could maintain themselves in any condition. The few counties barely pay with full rate tolls. I do not think this is a good bill. The bill proposes an unjust and unwarrantable discrimination against a certain class of roads and ought not to pass.

The bill failed to pass by yeas 5, nays 21.

APPLICANTS TO SELL LIQUOR.

Mr. Foulke moved to take from the table his bill (S. 100) to require applicants for liquor licenses to reside in the township for one year. He said society has the right to this protection. From imposition it is now subject to in such matters as this.

This bill is supported by every Republican Senator and three Democratic Senators, and desiring to give Democratic Senators a chance to repeat I move to take the bill from the table.

Mr. Faulkner: If the Senator desires to have us repeat, we had better adjourn, so as to have time to think over it. [Laughter.]

The motion was agreed to. The table was agreed to by yeas 21, nays 16.

Pending the roll call—

Mr. Faulkner, when his name was called, said: As the Senator would give me no time to repeat I shall have to vote "no." [Laughter.]

Mr. McIntosh, in explanation of his vote, said: I am almost persuaded, but as I have not made up my mind to disturb the present license law, I vote "no."

Mr. Smith, of Jay, when called upon to vote, said: I am against this bill, but if it should pass this amendment should be a part of it. I vote "aye."

Mr. Weir, in explanation of his vote, said: I am opposed to the bill, but if it should pass I would rather it should embrace the amendment, therefore I vote "aye."

The vote was then announced as above. So the amendment was rejected.

Mr. Youche moved to amend by providing that where a married woman joins with her husband in a deed conveying land by warranty, she shall never be made liable for damages for any breach of such covenant.

Mr. Smith, of Jay, made an ineffectual motion—yeas, 17; nays, 24—to lay the amendment on the table.

The amendment was agreed to.

Mr. Davis moved to amend so that a married woman shall have no right to encumber land by mortgage. He said: I believe the disposition of lands should not be made without the consent of both consortors.

Mr. McCullough: I believe the time has come when litigation will be saved by putting married women on an equal footing with their husbands. We have complications in law growing out of the statutes of 1875 and 1881, and the sooner we put married women on a par with the management and ownership of property is concerned, on an equal footing with men, the better it will be for all concerned.

The amendment was rejected by yeas 16, nays 25.

Mr. Faulkner, when his name was called, in explanation of his vote, said: I believe the law we have now is sufficient to protect married women, without any change, therefore I vote "no."

Mr. Shively, when his name was called, said: I am opposed to this bill and shall vote against it on its passage. I think, however, it would be better for this amendment and shall, therefore, vote "aye."

The vote was then announced as above. So the amendment was rejected.

On motion by Mr. Foulke the bill was ordered engrossed—yeas, 22; nays, 20.

Mr. Campbell, of St. Joseph, in explanation of his vote, said: I have seen so many cases where married women's homes have been secured by the prohibition of the law that they can not become security for their husbands that I think the law had better be left as it is. I vote "no."

APPLICANTS TO SELL LIQUOR.

Mr. Foulke's bill (S. 100) to amend Section 5314 of the liquor law so that applicants for license shall have resided in the township for one year, was read the second time with a majority committee report recommending the bill as amended, and a minority report recommending its passage.

Mr. Youche explained the bill is intended to remedy a defect in the existing law. It is a fact that only a man of good moral character shall be entitled to engage in the liquor business. It is proper that he should have a residence in the township so it may be known whether or not he is a man of good moral character. He should live there at least one year so the community may know whether or not he is a fit person to be engaged in such a business. The greatest odium brought upon the saloon business is by those who are utterly unfit to engage in that or any other business. I move to substitute the minority for the majority report.

On motion by Mr. Smith, of Jay, this motion was laid on the table by yeas 23, nays 18.

HOMESTEAD EXEMPTION.

Mr. Adkison's bill (S. 326) to exempt a \$1,000 homestead and personal property from sale on execution was read the second time, with a favorable committee report.

The Senate refused to concur in the report.

Mr. Adkison explained: The bill is in the interest of the poor man. It proposes a freehold homestead, but does not change the present law in regard to the exemption of personal property. It is not exempt for purchase money or for material purchased or labor done thereon. The bill is almost a literal copy of a bill introduced in the House of Representatives (by Mr. Lindsay) it behooves us to afford that relief to our citizens which States around us have. The bill gives the chance for a freehold. It is only the industrious, honest and economical man that can hold a homestead under this bill. I hope the bill will pass.

Mr. Zimmermann made an ineffectual motion—yeas, 13; nays, 27—to lay the bill on the table.

Mr. Fowler: I am very much in favor of the provisions of this bill, but I move to recommit the bill with directions to so

amend that a homestead of \$1,000 shall be exempt from execution and the owner shall encumber it in no way. It is for the protection not only of the man, but of his wife and children also. As the bill stands it is no exemption, because homesteads would be encumbered with mortgages and in a short time would be lost.

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Mr. Zimmermann made an ineffectual motion—yeas, 13; nays, 27—to lay the bill on the table.

Mr. Fowler: I am very much in favor of the provisions of this bill, but I move to recommit the bill with directions to so

of Indiana. That the following amendment be and is hereby proposed to the Constitution of the State of Indiana: Amend Section 2, Article 7 so that it read: "The Supreme Court shall consist of not less than three nor more than nine Judges, a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long believe well."

He said: I find by talking with my constituents that the idea of an Appellate Court does not find favor. I think if the Constitution were amended as here proposed the trouble now experienced would be obviated. I move that the constitutional rule be suspended and the resolution be read the second time.

The motion was rejected.

Mr. Gooding offered the following: Resolved, That the Committee on Benevolent Institutions be and is hereby instructed to prepare and report to this House, without unnecessary delay, a bill setting apart and assigning one of the institutions existing for the insane, as yet unoccupied, for an asylum for the feeble-minded children of the State.

Mr. Patten: If the gentleman (Mr. Gooding) knew more of this institution he would not offer this resolution. There are 300 soldiers' orphans and seventy-nine feeble-minded children there. They are kept separate and pay on separate grounds. There is no need of a movement such as this proposition.

On motion of Mr. Hayworth the resolution was laid on the table.

Mr. Gordon introduced a resolution to regulate the travel on toll and gravel roads. He said: This is aimed to check the hauling of heavy loads over gravel roads when the roads are soft and are badly cut up.

Mr. McGovney: It is a measure that should be adopted. Our roads are too badly cut up in bad weather.

Mr. Tippecanoe: In the absence of the gentleman from Montgomery (Mr. Trout), to whose heart this bill is dear by reason of a great many free gravel roads in his county, I want to say that the measure should pass.

The motion was adopted.

THE SPEAKER AND THE HOUSE.

THE SPEAKER: I want to say this for the first and last time and forever. There has been a great deal of trouble in this House since last Thursday afternoon. The time has been occupied in the offering of useless resolutions and with talk. Here we sat during yesterday waiting for a quorum that did not arrive, and the time has been wasted. The matter has become ridiculous, or fast traveling in that direction. And although he did not say they might not yet justify themselves, but he would say that so far as he was concerned he would use every possible effort to stop this kind of waste of time. He would add that without desiring to become offensive he would much prefer to leave the chair and leave the House, than to see the time wasted as it had been the last two or three days. He had felt it his duty to say this much, and to call the attention of the House to the fact that their constituents expected them to work, and not to adjourn over for three or four days and then have no quorum when they reassembled for the transaction of business. And now if the House did not choose to heed his suggestion he promised the House he would say no more about the matter until the crack of doom.

Mr. Patten offered the following resolution: Resolved, That the Speaker is not justified in his criticisms upon the members of this House, as it is not his duty to criticize the members of this House, but it is his duty to call the members to order to maintain the dignity of the chair by delivering their lectures therefrom upon the conduct of the members.

On motion of Mr. Reeves the resolution was rejected by yeas 72, nays 12.

Pending the roll call—

Mr. Deem, explaining his vote, said: The Speaker has done in many lectures, and I believe that the criticism was in some measure merited. I vote "aye."

Mr. Harrell: I think that the remarks of the Speaker were well timed and in proper place, so I vote "aye."

Mr. Ellison: I feel that the Speaker's remarks were certainly uncalled for. It is hardly the place of the Speaker to lecture the members on this floor. His duty is that of a presiding officer and not a censor. As a fact, he has many times himself held back the business of this House. His criticism, if criticism it may be called, of the members was indiscriminate. As for myself, I have been at all times in my seat unless sick. While I do not like the wording of the resolution, yet the remarks of the Speaker were unauthorized and out of place. The lack of a quorum was the result of circumstances and the fault of no one intentionally. As to rejecting the resolution I vote "no."

Mr. Moody: I believe I never cast a vote which perplexed me as this. While I do not think in was the province of the Speaker to hold the remarks he did, yet I do not like the wording of the resolution. I vote "aye."

Mr. Passage: As I do not regard the Speaker's words a lecture, but advice which he was in place in giving, I vote "aye."

Mr. Patten: This resolution does not refer to advice, but a lecture on the part of the Speaker, his criticism of the conduct of members. Every member has come here to do his duty. I vote "no."

Mr. Reeves: I do not regard the remarks of the Speaker as personal. It was advice for the future guidance of members. I vote "aye."

Mr. Rivers: The remarks of the Speaker were directed toward those only, I believe, who make long-winded speeches. As for myself I do not believe that I was included in the criticism. I vote "aye."

Mr. Sayre: I believe that here the powers and responsibility go together, and therefore no responsibility. The remarks of the Speaker were certainly directed to the majority and were well timed. I vote "aye."

Mr. Smith, of Tippecanoe: I regret exceedingly that I am in a position to vote on the merit of the resolution. I would vote to table it, but it now stands upon its merits. The resolution is in angular. It refers to the Speaker, the resolution-maker and the press. Scattered as it will be by the latter, the remarks of the Speaker will be taken in a bad light. As for myself I can not see that the remarks can apply to me. I have been here two terms, I have never been absent save when sent away by the House, have dodged but two votes, and my only failure has been to talk a little. However, upon the resolution I shall have to vote "aye."

Mr. Staley: No one has a higher regard for the Speaker on this floor than I. I think the criticism of the Speaker was eminently just. It is much better that it came from him than from the public or from our constituents. I regret only that the Speaker was compelled to do it.

Mr. Taylor: There is no one here who has a higher regard for the Speaker than I, but I must say that this lecture or criticism of his was not deserved. Had he said that we as members should proceed more rapidly or better, then I would have been in place; but he said officially that our constituents have been wrong, he has beyond his bounds. If my friend should do wrong I will be the first to tell him, and on that principle I would say as much to the Speaker, but not on this floor. I would tell him without publication. It should have been the same with the Speaker. We are not school children, that we are to be chastised by the man whom we have put in that Speaker's chair. We are accountable only to our constituents—only

to them, and not to the Speaker nor to the members on this floor. I stand here as a man, a freeman. I like to see men stand here as freemen. I know of men here who think as I do, but who, from abject weakness, have voted against this resolution. I remember when Governor Williams essayed to read a lecture to the General Assembly. Although a personal friend and neighbor of the Governor, I resented it. As to the Speaker, I believe that officially he has done wrong; personally he has not. I vote "no."

Mr. Townsend: I do not believe that the Speaker has said more to us this morning than the people, our constituents, have. It is our duty to forward business. It is charged that we are here for the per diem. For myself, my record shows me clear from this. I may not agree with every word of the Speaker, but in the main he was correct. I vote "aye."

Mr. Wilson: I do not understand that the remarks of the Speaker were either reprimand or criticism, but advice to get down to business. I vote "aye."

The vote was then announced as above. So the resolution was rejected.

Mr. Engle offered a resolution to censure Mr. Patten for the resolution offered against the Speaker.

The SPEAKER: I hope the gentleman will censure the resolution, so that this matter will cease.

Mr. Patten: If any member of this House thinks that I deserve censure I will resign and go home.